

## Draft Regulations

### Draft Regulation

An Act respecting health services and social services (chapter S-4.2)

An Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2)

#### Private seniors' residence — Certification

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the certification of private seniors' residences, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation replaces the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence (chapter S-4.2, r. 5.01). To that effect, just as the regulation it replaces, the draft Regulation determines the categories of private seniors' residences and defines the services that may be offered therein. It provides health and social criteria to be complied with by operators of private seniors' residences in order to be certified, including the minimum supervision thresholds in a residence and the training required from persons working in a residence. It also provides the operating standards to be complied with by operators of private seniors' residences, in particular to ensure the health and safety of residents, as well as the information that must be included in a resident's file. Lastly, it identifies the provisions of the Regulation a contravention of which constitutes an offence.

Further information may be obtained by contacting Élise Paquette, Director, Direction de la certification des résidences privées pour aînés, Ministère de la Santé et des Services sociaux, 1075, chemin Sainte-Foy, Québec (Québec) G1S 2M1; telephone: 418 266-6893; fax: 418 266-2243; email: elise.paquette@msss.gouv.qc.ca

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15<sup>e</sup> étage, Québec (Québec) G1S 2M1.

GAÉTAN BARRETTE,  
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### Regulation respecting the certification of private seniors' residence

An Act respecting health services and social services (chapter S-4.2, ss. 346.0.1, 346.0.3, 346.0.6, 346.0.7, 346.0.20 and 346.20.1)

An Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2, s. 46, 2nd par.)

#### CHAPTER I GENERAL

##### DIVISION I SCOPE AND INTERPRETATION

**1.** A private seniors' residence belongs to one or a number of the following categories:

(1) category 1, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments, various services included in at least 2 of the following categories of services: meal services, security services, recreation services or domestic help services except, in the latter case, medication distribution;

(2) category 2, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments, various services included in at least 2 of the following categories of services: meal services, security services, recreation services or domestic help services including, in the latter case, medication distribution;

(3) category 3, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments, various services included in at least 2 of the following categories of services: meal services, security services, recreation services, domestic help services or personal assistance services, including at least 1 service in the latter category;

(4) category 4, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments, various services included in at least 2 of the following categories of services: meal services, security services, recreation services, domestic help services, personal assistance services or nursing care, including at least 1 service in the latter category.

Category 1 and category 2 residences offer services for independent elderly persons and category 3 and category 4 residences offer services for semi-independent elderly persons.

**2.** For the purposes of the second paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2) and this Regulation,

(1) “domestic help services” means any of the following services:

- (a) housekeeping services in rental units;
- (b) laundry services for clothing and bedding;
- (c) medication distribution;

(2) “personal assistance services” means any of the following services:

(a) feeding, personal hygiene, dressing and bathing assistance services;

(b) the other assistance services for daily activities the provision of which is not the subject of legislative or regulatory provisions;

(c) the administration of medication in accordance with the first paragraph of section 25;

(3) “recreation services” means organized recreation or entertainment services to promote socialization provided in the residence by the operator or by a residents’ committee, in particular in the form of physical, mental, social or creative activities;

(4) “meal services” means the supply or availability, in the residence and on a regular basis, of one or more meals; the fact, for an operator, of suspending on an occasional or repeated basis the supply or availability of that service does not deprive the service of its regular character;

(5) “security services” means the full-time presence in a residence or, as the case may be, the availability of a staff member providing supervision or responding to calls from a call-for-help system offered to residents pursuant to section 15;

(6) “nursing care” means care provided in a resident’s rental unit in the course of the professional activities that nurses and nursing assistants are authorized to exercise under an Act or regulation, and the care provided during the exercise of such activities by any other person authorized to exercise them under an Act or regulation.

**3.** A private seniors’ residence offering services in more than one category provided for in this Regulation in separate units or on separate floors is subject to the respective requirements of those categories in each unit or on each floor concerned. If services of various categories are not offered separately, the private seniors’ residence is subject to the requirements of the highest category.

In addition to the services provided for in section 1 in respect of each of their categories, categories 2, 3 and 4 residences may also put at the disposal of residents an ambulatory health service, which consists in keeping a room where one or a number of authorized professionals are available to receive a resident who wishes to consult on an occasional basis for a particular health problem or its follow-up.

**4.** This Regulation and sections 346.0.1 to 346.0.21 of the Act do not apply to the operator of a private seniors’ residence housing exclusively less than 6 persons who are related to the operator by blood, marriage, civil union or de facto union.

**5.** Sections 3, 15, 37, 39, 40, 50 and the second paragraph of section 53 do not apply to the operator of a private seniors’ residence housing less than 6 residents.

**6.** Section 3, the second paragraph of section 39, section 40 and the second paragraph of section 53 do not apply to the operator of a private seniors’ residence housing 6 residents or more but counting 9 rental units or less.

Section 15 does not apply to the operator of such a residence in category 1.

## DIVISION II REGISTER

**7.** In addition to the information provided for in the third paragraph of section 346.0.1 of the Act, an integrated health and social services centre must collect and update the following information for the purposes of constituting and keeping the register of private seniors’ residences:

(1) the name and address of the residence and its opening date;

(2) the name and address of the operator and, in the case of a legal person or partnership, its name, mode of constitution and the business number assigned by the enterprise registrar in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1);

(3) the name and address of the shareholders or, as the case may be, partners;

(4) the date on which the operator took possession of the residence;

(5) where applicable, the names and addresses of the other private seniors' residences held by the operator;

(6) where applicable, the name of the associations representing private seniors' residences of which the operator is a member;

(7) the total number of rental units in the residence, specifying whether they are rooms or apartments;

(8) the number of residents in each of the determined age groups;

(9) whether or not there are care units in the residence;

(10) whether or not there is an ambulatory health service in the residence;

(11) where applicable, for each work shift, the number of staff members in charge of providing personal assistance services, the number of nurses and nursing assistants present in the residence and the total number of staff members present in the residence.

The integrated centre must also collect and update the following information on the building for the purposes of the register under the third paragraph of section 346.0.1 of the Act:

(1) the number of floors in the residence and the type of elevator with which it is equipped, if any;

(2) the type of construction of the building;

(3) the characteristics of the basement and its use;

(4) whether or not there is an access ramp to the building;

(5) whether or not the residence is equipped with a sprinkler system and the drinking water supply source;

(6) whether or not there are hot water mixing valves and detection and alarm equipment;

(7) the presence of another electric power supply source.

**8.** In addition to the words "private seniors' residence" provided for in section 346.0.20.1 of the Act, a congregate residential facility may not be operated under a name including the words listed in Schedule I if the operator does not hold a temporary certificate of compliance or a certificate of compliance.

Likewise, the operator of such a facility may not use a logo or another sign that could lead to believe that the facility is operated as a private seniors' residence if the operator does not hold a certificate of compliance or a temporary certificate of compliance.

## CHAPTER II OPERATION OF A PRIVATE SENIORS' RESIDENCE

### DIVISION I GENERAL

**9.** The operator of a private seniors' residence must make sure that all the provisions of this Regulation are complied with in the residence.

More specifically, the operator must make sure that the residents and their close relatives are treated with courtesy, fairness and understanding. Furthermore, to ensure the health and safety of residents, the operator must make sure that the residence and the land on which it is situated are maintained and kept in a good condition. The foregoing also applies to the appliances and equipment required to provide care and personal assistance services, which must also be used in a safe and adequate manner.

The operator must, on request by the body recognized by the Minister under the second paragraph of section 346.0.4.1 of the Act or by a person authorized to carry out an inspection in accordance with section 346.0.9 of the Act, provide any document attesting that the provisions of this Regulation are complied with, within no more than 48 hours.

### DIVISION II TEMPORARY CERTIFICATE OF COMPLIANCE

**10.** In addition to the conditions set out in the Act, every person or partnership applying for a temporary certificate of compliance must meet the following conditions:

(1) neither the person or partnership, nor any officer of the residence, may have held a temporary certificate of compliance or a certificate of compliance that, in the year prior to the application, was revoked or was not renewed pursuant to section 346.0.11 of the Act;

(2) neither the person or partnership, nor any officer of the residence, may, in the year prior to the application, have been refused the issue of a certificate of compliance pursuant to the Act;

(3) neither the person or partnership, nor any officer of the residence, may, in the year prior to the application, have been found guilty of an offence under section 531.1 of the Act.

For the purposes of the first paragraph, a legal person one of the directors of which or whose chief officer acts or has already acted as officer or director of a legal person that does not meet the conditions provided for in any of subparagraphs 1 to 3 of the first paragraph or that would not meet them if it still existed must demonstrate to the integrated health and social services centre that it will take the measures necessary for ensuring compliance with this Regulation.

**11.** Every person or partnership applying for a temporary certificate of compliance must provide the integrated health and social services centre with the following information and documents:

(1) the name and contact information of the applicant and the officers of the residence;

(2) the address where the applicant wishes to receive correspondence, if different from the address provided for the applicant under subparagraph 1;

(3) the name and address of the residence for which the application is made;

(4) where applicable, the name of any residence for which the applicant holds or has held a temporary certificate of compliance or a certificate of compliance;

(5) where applicable, a copy of the registration declaration filed in the enterprise register pursuant to the Act respecting the legal publicity of enterprises (chapter P-44.1) and the business number assigned to the applicant;

(6) the category or categories of private seniors' residence that the applicant intends to operate;

(7) a description of the target clientele, of all the services offered in the residence and their cost, and the residence's capacity for providing services and receiving persons with a disability;

(8) the number of rental units planned for the residence, specified in terms of rooms and apartments;

(9) a written declaration by the applicant, in the case of a natural person, and by each officer of the residence and, where applicable, by each director, stating that they are aware of all the relevant provisions of the Act and the provisions of this Regulation and that they undertake to comply or ensure compliance with those provisions from the beginning of the period of validity of the temporary certificate of compliance;

(10) a written declaration by the applicant and by each officer of the residence and, where applicable, by each director, who is, or has been, charged with or convicted

of an indictable or other offence, unless, in the case of a conviction, a pardon has been obtained, along with all the information required for the verification of the declaration by a police force and written consent, from each person concerned, to the verification and to the disclosure of the results of the verification to the integrated centre by the police force;

(11) an attestation from the municipality where the residence will be situated confirming that the project does not violate any zoning by-law;

(12) an attestation from a professional, such as an architect or engineer, confirming that the construction of the building or of the part thereof that will shelter the residence is compliant for the planned use.

In addition, where the application is made by a legal person or a partnership, the applicant must provide

(1) a certified copy of its constituting act or partnership agreement, as the case may be;

(2) a copy of the initial declaration filed in the enterprise register under the Act respecting the legal publicity of enterprises; and

(3) a certified copy of the resolution authorizing the application.

A copy of the declaration and consent provided for in subparagraph 10 of the first paragraph must be kept for 5 years following the departure of the person concerned by the declaration or consent.

### **DIVISION III HEALTH AND SOCIAL CRITERIA FOR CERTIFICATION**

#### **§1. General**

**12.** The operator of a private seniors' residence must, in order to obtain a certificate of compliance, comply with the health and social criteria provided for in this Division that apply to the operator's residence.

**13.** Before entering into a lease with a person wishing to become a resident, the operator of a private seniors' residence must identify, using the document referred to in section 37, the services, if any, that the person wishes to receive from the operator. The operator must then enter into a written lease using, as the case may be, the forms prescribed by paragraph 4 or paragraph 5 of section 1 of the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (chapter R-8.1, r. 3). In every case, the operator must also use the form prescribed by section 2 of that Regulation.

The operator of a private seniors' residence must offer and maintain all the services listed in the lease and the appendix to the lease for the full term of the lease without increasing the cost or decreasing the provision of the services.

The operator must also maintain in the residence, at all times, sufficient staff to respond adequately to the services agreed upon and to the commitments made to residents under the leases entered into under the first paragraph.

**14.** The operator of a private seniors' residence must take and maintain liability insurance coverage in a sufficient amount to cover any claim resulting from the operator's general civil or professional liability, the minimum amounts of which are provided for in Schedule II.

If the operator is a legal person, the operator must also take and maintain insurance coverage concerning the liability of the residence's directors and officers, where applicable.

## *§2. Residents' health and safety*

**15.** The operator of a private seniors' residence must make a call-for-help system available to each resident, enabling the resident to obtain, quickly and at all times, assistance from a person of full age responsible for taking action in case of emergency and for ensuring access inside the residence by the emergency services.

The call-for-help system may be fixed or mobile. If it is fixed, it must be usable in each of the private bathrooms or washrooms of the resident's room or dwelling, as well as in each shared bathroom or washroom of the residence. A fixed call-for-help system must also be accessible from the resident's bed.

The resident or the resident's representative may refuse in writing the use of a mobile call-for-help system, where applicable.

A document expressing a refusal pursuant to this section must be filed in the resident's file kept pursuant to section 57.

**16.** Subject to the application of the second paragraph of section 346.0.7 of the Act or of any other legislative or regulatory provision requiring the presence of a greater number of persons in a residence, the operator of a private seniors' residence must ensure supervision in the residence, in accordance with sections 17 to 20, according to the category to which the residence belongs and the number of rental units offered for lease.

**17.** In the case of a category 1 private seniors' residence comprising 49 rental units or less, the operator must adopt measures intended to make sure that a person of full age may be reached at all times and without delay in case of emergency. That person may be a staff member, a resident, a supervising lessee or a volunteer of the residence. Those measures must be approved by the board of directors of the operator, where applicable.

The operator of such a residence must make sure that the person ensuring supervision has the necessary skills to carry out such duties.

In the case of a category 1 residence comprising 50 to 199 rental units, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. In the case of a residence of 200 rental units or more, that minimum number is increased to 2 persons.

Every person available or present in the residence to ensure supervision pursuant to this section must hold the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

**18.** In the case of a category 2 private seniors' residence comprising 199 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. For a residence of 200 rental units or more, that minimum number is increased to 2 persons.

Every person present in the residence to ensure supervision pursuant to the first paragraph must hold the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

**19.** In the case of a category 3 private seniors' residence comprising 99 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. That person must hold the attestations referred to in section 28. The person must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section, including, in the case of the document in subparagraph 2 of the first paragraph, the elements mentioned in subparagraphs 1 and 2 of the third paragraph of that section.

Despite the foregoing, in the case of a residence comprising 9 rental units or less, the operator may, for discontinuous periods of less than 12 hours, have the supervision in the residence provided by a person of full age, other than a resident, insofar as that person holds the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

In the case of a category 3 residence comprising from 100 to 199 rental units, at least 2 persons of full age who are staff members must be present at all times in the residence to ensure supervision, including 1 person holding the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28. The other person must hold the attestations referred to in section 28. The persons must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section, including, for the document referred to in subparagraph 2 of that first paragraph, the elements mentioned in subparagraphs 1 and 2 of the third paragraph of that section.

In the case of a residence comprising 200 rental units or more, at least 3 persons of full age who are staff members must be present at all times in the residence to ensure supervision, including 1 person holding the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28. The other 2 persons must hold the attestations referred to in section 28. The persons must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section, including, for the document referred to in subparagraph 2 of that first paragraph, the elements mentioned in subparagraphs 1 and 2 of the third paragraph of that section.

**20.** In the case of a category 4 private seniors' residence comprising 49 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. That number is increased to 2 for a residence from 50 to 99 rental units, 3 for a residence from 100 to 199 rental units and 4 for a residence of 200 rental units or more.

Every person who ensures supervision pursuant to this section must hold the attestations referred to in section 28. The person must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section, including, for the document referred to in subparagraph 2 of that first paragraph, the elements mentioned in subparagraphs 1 and 2 of the third paragraph of that section.

**21.** The operator of a private seniors' residence must establish a fire safety plan, in particular taking into account section 45, and keep it up-to-date.

The fire safety plan must contain, as a minimum,

(1) a list of the residents, specifying for each the measures to be taken to ensure they are evacuated to a safe place;

(2) the telephone numbers of the persons who must be alerted in the event of a fire in order to provide housing for the residents; and

(3) where applicable, the names and contact information of all organizations, establishments institutions or individuals that have undertaken to provide assistance in the event of an evacuation of the residence and to take charge of the persons evacuated, along with a copy of the agreements signed.

A copy of the plan must be kept in an accessible place determined by the fire safety service of the municipality where the residence is situated.

Every staff member and every person in charge of ensuring supervision in the residence must be informed, upon taking office and thereafter every year, of the content of the plan and of the specific tasks they are to perform in the event of an evacuation and they must be able to perform them.

**22.** The operator of a private seniors' residence must establish procedures to be followed by the residence's staff in case of danger to the life or integrity of a resident, the death or unexplained absence of a resident, and a heat wave advisory issued by the competent authorities. The procedures must include at least the actions provided for in Schedule III. The operator must also establish procedures to prevent infections in the residence and measures to be taken when a resident shows signs of an infectious disease.

The operator must inform the staff members of the procedures referred to in the first paragraph.

**23.** The operator of a category 1 or 2 private seniors' residence may not accept an elderly person who, before arriving at the residence, has a cognitive disorder that makes constant supervision necessary, unless the supervision is provided by a third person that does not act on behalf or at the request of the operator.

**24.** The operator of a category 3 or 4 private seniors' residence must take all the measures necessary to prevent residents prone to wandering from leaving the residence or its grounds, including the installation of a security device that allows, in such a case, to alert a staff member and the establishment of a procedure intended for staff members regarding their course of action in the event of an alert.

The operator must also complete an information sheet, with residents prone to wandering or the resident's representative, if applicable, describing the resident's general profile and physical characteristics, and accompanied by a recent photograph.

Once completed, the information sheet must be kept in the file referred to in section 57.

**25.** In a category 3 or 4 private seniors' residence, prescribed ready-to-administer medications must be administered in accordance with section 39.8 of the Professional Code (chapter C-26) or a regulation made pursuant to section 39.9 of the Code.

In addition, in a category 4 private residence, the invasive care involved in assistance with activities of daily living that is required on a sustained basis for the maintenance of health must be provided in accordance with section 39.7 of the Professional Code (chapter C-26) or a regulation made pursuant to section 39.9 of the Code.

**26.** The operator of a category 2, 3 or 4 private seniors' residence must implement, for staff members, a procedure regarding the medications prescribed to residents and prepared by a professional authorized to do so, including

(1) the measures to be taken upon the arrival and departure of a resident to whom medications have been prescribed;

(2) the storage, conservation, distribution or administration measures for medications prescribed to residents; and

(3) measures for the management of outdated medications or medications no longer needed by residents.

The operator must designate, from among the staff members, a person in charge of the application of the procedure provided for in the first paragraph.

The person in charge must establish a list of the persons authorized to distribute and administer medications during each work shift. The person in charge must also make sure

(1) that the authorized person distributing or administering a medication verifies the resident's identity and ensures that the medications given or administered are in fact intended for the resident;

(2) that the medications prescribed to each resident are clearly identified and stored in a placed under lock and key and, if required, refrigerated; and

(3) that an incident or accident in relation to the distribution or administration of a medication to a resident be reported in the register of incidents and accidents provided for in section 50.

### **§3. Persons working in the residence**

**27.** For the purposes of this Regulation, a care attendant is any person, including the operator if applicable, who, in performing duties in the residence, intervenes directly with residents to provide assistance, support or aid, except a volunteer or any member of a professional order in the field of health.

**28.** Every care attendant must, not later than 1 year after beginning work, hold the attestations of completion issued by the persons or organizations listed in Schedule IV confirming that the person has successfully completed training on each of the following subjects:

- (1) cardiopulmonary resuscitation;
- (2) standard first aid;
- (3) the safe movement of persons.

For the subjects referred to in subparagraphs 1 and 2 of the first paragraph, the training must enable the acquisition of the skills listed in that Schedule.

Thereafter, every care attendant is required to keep the attestations up-to-date.

**29.** Every care attendant must, not later than 1 year after beginning work,

(1) hold a vocational education diploma awarded by the Ministère de l'Éducation, de l'Enseignement supérieur et de la Recherche in the fields of assistance in health care facilities or home care assistance;

(2) subject to the third paragraph, have received from a school board, or through a school board, care attendant training and hold an official document issued by the school board certifying competency in

(a) identifying the responsibilities and obligations of a care attendant and behaving and intervening in a manner consistent with professional ethics with regard to residents' rights;

(b) identifying the needs of elderly persons, recognizing the physical and physiological changes associated with normal aging, and taking into account the functional consequences of vision and hearing problems and expression problems such as aphasia, as well as their impact on those needs, in particular as part of the activities of daily living; and

(c) applying basic practices to prevent infection and contamination; or

(3) hold from a school board a document confirming that

(a) the care attendant has completed a number of courses equivalent to 1 year of full-time studies in a program leading to the title of nurse or nursing assistant; or

(b) the care attendant has 3 or more years of full-time experience in providing support, aid, assistance or supervision in direct interventions, acquired over the last 60 months and obtained as

i. a beneficiary care attendant or equivalent in a community organization or private seniors' residence;

ii. a beneficiary care attendant in an institution or intermediate resource, or as the person responsible for an intermediate resource or family-type resource, provided the resource housed elderly persons and the care attendant performed tasks in the resource that involved providing assistance and support services; or

iii. a family and social auxiliary or a home care auxiliary in an institution operating a local community service centre or rehabilitation centre, or in a social economy enterprise.

For the purposes of subparagraph 3 of the first paragraph, 1 year of full-time experience corresponds to 1,664 hours of paid work.

In the case of a category 3 or 4 residence, the document provided for in subparagraph 2 of the first paragraph must also confirm that the care attendant has the following complementary skills:

(1) applying basic care procedures, in particular as part of the activities of daily living;

(2) taking into account the functional consequences of illness, physical and mental disability and cognitive impairment and their impact on the needs of the elderly person, in particular as part of the activities of daily living.

**30.** The staff members of a private seniors' residence must not be charged with or have been convicted of an indictable or other offence related to the abilities and conduct required to work in the residence, unless, in the case of a conviction, a pardon has been obtained.

The foregoing also applies to volunteers working in the residence on a regular basis or who, as part of their duties, are required to come in contact directly with the residents.

**31.** Every person wishing to join the staff of a private seniors' residence or to work there as a volunteer in accordance with the second paragraph of section 30

must, before beginning work, provide the operator with a declaration concerning any charge or conviction referred to in the first paragraph of that section unless, in the case of a conviction, a pardon has been obtained.

The declaration must contain all the information necessary for verification and include written consent to the verification and to the disclosure of the results of the verification to the operator.

The operator must have the accuracy of the declaration referred to in the first paragraph verified before the staff member or volunteer begins work.

However, the operator may hire a person as staff member subject to the verification of the person's judicial record if the person has declared no judicial record and insofar as the hiring is necessary to maintain sufficient staff on the premises to adequately meet the needs of the residents and the commitments made in their respect in the leases entered into under section 13.

**32.** The verification of a judicial record referred to in section 31 must be repeated when

(1) a staff member or a volunteer referred to in the second paragraph of section 30 is charged with or convicted of an indictable or other offence; or

(2) the operator or the integrated health and social services centre so requires.

Similarly, when a new director or officer is appointed, the operator must, before that person takes office, provide the integrated centre with the declaration and consent of the director or officer, as described in subparagraph 10 of the first paragraph of section 11.

**33.** The operator of a private seniors' residence must, without delay, inform the integrated health and social services centre of any indictment for an indictable or other offence brought against the operator or one of the directors or officers, and of any conviction for such offence pronounced against the operator or one of the directors or officers.

**34.** The operator of a private seniors' residence providing services to the residents through subcontractors or who uses the services of third persons to fill the operator's needs for personnel, in particular the services of a placement agency, must obtain from the subcontractors or other third persons the guarantee that the persons that could be chosen to work in the residence have not been charged with or convicted of an indictable or other offence. The operator must also obtain from any subcontractor or other third person the guarantee that a person who has been



charged with or convicted of an indictable or other offence related to the abilities and conduct required to work in the residence will not work in the residence, unless, in the case of a conviction, a pardon has been obtained.

The operator must also obtain from the subcontractors or other third persons referred to in the first paragraph the guarantee that the persons chosen to work in the residence as care attendants hold the attestations referred to in section 28. The operator must also obtain from the subcontractors and third persons the guarantee that those persons hold a diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained the document confirming that they hold the document certifying competency provided for in subparagraph 2 of the first paragraph of section 29 and, where applicable, the third paragraph of section 29, or the document referred to in subparagraph 3 of the first paragraph of section 29.

#### DIVISION IV OPERATING STANDARDS

##### §1. *General*

**35.** The operator of a private seniors' residence must, in the course of operating the residence, comply with the standards provided for in this Division that are applicable. Failing that, the provisions of section 346.0.11 of the Act apply.

**36.** The operator of a private seniors' residence must adopt and enforce a code ethics, for the residence's directors, staff members, volunteers and any other person working in the residence, setting out expected practices and behaviour toward residents and their close relatives and specifying, as a minimum,

(1) the right to be treated with courtesy, fairness and understanding in the respect of their dignity, autonomy and needs;

(2) the right to information and freedom of expression;

(3) the right to confidentiality and discretion; and

(4) the prohibition preventing the operator, staff members, volunteers and any other person working in the residence from accepting donations or bequests from a resident made while the resident is or was housed at the residence, or, subject to the second paragraph, from soliciting residents in any way.

In the case of a private seniors' residence constituted for non-profit purposes or as a cooperative under a statute of Québec, the code of ethics may provide that residents may be solicited for purposes determined by the board of directors.

The persons subject to the code of ethics must undertake, in writing, to comply with the code of ethics. The undertaking made by a staff member or a volunteer referred to in the first paragraph of section 17 must be placed in the file kept pursuant to section 58.

The operator must post the code of ethics visibly, in a place accessible to the residents.

**37.** The operator of a private seniors' residence must, before signing a lease, give a prospective resident, or the prospective resident's representative, if applicable, a document drafted in simple and clear terms specifying

(1) all the services provided in the residence, with their cost;

(2) the conditions on which persons with a disability may be admitted and the accommodation capacity for such persons;

(3) the operating rules for the residence;

(4) the fact that any resident may file a complaint with the integrated health and social services centre of the territory where the residence is situated concerning the services that the resident received or ought to have received from the residence; and

(5) the fact that every resident must insure his or her personal property.

In the case of a category 1 or 2 residence, the document referred to in the first paragraph must also indicate the fact that the operator does not provide personal assistance services or nursing care.

The operator gives to the resident or, where applicable, his or her representative the code of ethics adopted under the first paragraph of section 36.

**38.** The operator of a private seniors' residence must allow the residents to receive visits from visitors at all times.

The operator must ensure that the layout of the residence allows visits to take place in a way that respect the residents' privacy.

**39.** To promote the socialization of residents and to prevent their isolation, the operator of a private seniors' residence must offer them various activities, including organized recreation and entertainment activities that are varied and adapted to the client profile for the residence.

The operator must post visibly a schedule of recreational activities in a place accessible to the residents, for consultation by residents and close relatives.

**40.** The operator of a private seniors' residence must, for all new staff members, draw up and apply a reception and job induction program to familiarize them with their new work environment and the tasks inherent to their duties.

## *§2. Residents' health and safety*

**41.** The operator of a private seniors' residence must sign an agreement with the integrated health and social services centre in the territory where the residence is situated setting out how health services and social services will be dispensed to the residents by that institution, undertakings made by the institution and the operator in that respect and any other modality concerning their cooperation.

In the case of a category 3 or 4 residence, the agreement must also establish the manner in which sections 39.7 and 39.8 of the Professional Code (chapter C-26) are to apply or, as the case may be, the manner in which the provisions of a regulation made under section 39.9 of the Code are to apply.

**42.** The operator of a private seniors' residence must allow health or social services professionals chosen by the residents and employees of an institution to have access to residents at all times, in particular to assess their psychosocial needs, monitor their state of health or provide care or services.

**43.** Professional activities carried out in a residence, within the framework of the services provided by the operator, must be carried out by members in good standing of the professional order concerned or by persons who, even if they are not members of the professional order concerned, are authorized to carry out such activities pursuant to an Act or a regulation.

**44.** The operator of a private seniors' residence must inform the residents that they are entitled to address a complaint concerning the services that the resident received or ought to have received from the residence, directly to the local service quality and complaints commissioner of the integrated health and social services centre of the territory where the residence is situated.

The operator must make available, in a place accessible to residents and their visitors, the information about the exercise of the right and the information they need to file a complaint.

**45.** The operator of a private seniors' residence must ensure the health and safety of residents by offering and maintaining a living environment that complies with the provisions of any Act or regulation, including a municipal by-law, that are applicable to the operator or residence, in particular any standards in matters of hygiene, sanitation, construction, building, food products or safety, including fire safety.

An operator that offers services through subcontractors must ensure that they comply with the applicable legislative and regulatory provisions.

The operator must keep in the residence, for at least 5 years, the orders, remedial notices or other documents issued to the operator by any authority in charge of applying any applicable legislative or regulatory provisions, as well as proof showing that the operator has complied with them by taking the appropriate remedial action, where applicable.

**46.** The operator of a private seniors' residence must, taking into account the type of clientele residing there and the risk associated with it, store in a secure storage space all household cleaning materials. The operator must also take the measures necessary to ensure that any flammable, toxic or explosive product is not accessible to residents.

**47.** Every private seniors' residence must have mobile first aid kits in good condition and readily accessible by staff members and volunteers.

The content of the kits must be adapted to the number and types of residents, in particular as regards the nature and quantity of the items included in the kit.

**48.** The operator of a category 2, 3 or 4 private seniors' residence must promote and encourage the residents' autonomy by favouring the self-administration of medications by the residents.

The operator must make sure that residents who self-administer their medications keep them safely in their room or dwelling so that they are not easily accessible to the other residents.

**49.** The operator of a private seniors' residence may not offer, sell or put at the disposal of a resident any medication, whether or not the medication may be sold by anyone under the Regulation respecting the terms and conditions for the sale of medications (chapter P-10, r. 12).

In addition, subject to subparagraph 2 of the third paragraph of section 26, no medication of a resident may be kept outside the resident's room or dwelling.

**50.** To prevent, correct or reduce the frequency of situations creating a risk, the operator must establish a reporting procedure for known incidents and accidents that occur in the residence and involve a resident.

The procedure must include, as a minimum,

(1) the keeping of a register to record the names of witnesses, the time and place of the incident or accident, a description of the facts observed, the circumstances of an incident or accident and, where applicable, the immediate consequences for the resident;

(2) the means used by the operator to prevent the occurrence of other incidents or accidents; and

(3) the obligation to disclose every accident to the resident, his or her representative, where applicable, and, if the resident consents, to the person to be contacted in case of emergency, as well as the rules to be followed for such disclosure.

Following an accident, the information in subparagraph 1 of the first paragraph must be filed in the resident's file provided for in section 57.

For the purposes of this Regulation,

(1) "accident" means an action or situation in which a risk is realized that has, or could have, consequences for the state of health or well-being of a resident, staff member, professional or third person;

(2) "incident" means an action or situation that has no consequences for the health or well-being of a resident, staff member, professional or third person but that has an unusual outcome and could, in other circumstances, have had consequences.

**51.** The operator of a private seniors' residence must, with the resident's consent or, where applicable, that of his or her representative, notify the integrated health and social services centre of the territory where the residence is situated when the operator notices that

(1) a resident is behaving unusually or unexpectedly in a way that may harm the resident or another person;

(2) a resident shows a loss of cognitive autonomy associated with behavioral disorders;

(3) a state of health that presents a risk for a resident's safety in case of emergency or that requires care or services beyond the services offered by the operator.

The mechanism for giving notice to the integrated health and social services centre must be agreed upon between them in the agreement entered into pursuant to section 41.

A notice given pursuant to this section must be filed in the resident's file provided for in section 57.

**52.** The operator of a private seniors' residence may, with the consent of a resident or a person who wishes to become one, proceed with or request the identification of a loss of autonomy of the resident or person, in order to determine if their state of health may require care or services beyond the services offered by the operator or to enable the resident or person to determine the care and services required by his or her condition. Such identification must be conducted using the tool for the identification of persons with decreasing autonomy Prisma-7.

The operator may also, in the same manner and for the same purposes, proceed with or request an assessment of the autonomy of such a resident or person. Such assessment must be conducted using the functional autonomy measurement system (*système de mesure de l'autonomie fonctionnelle* (SMAF)) by a professional authorized to do so.

Only the tools referred to in the first and second paragraphs may be used to conduct such identification or assessment. The result thereof must be filed in the resident's file kept pursuant to section 57.

Should a resident decide to require additional services following an assessment made under the second paragraph, the new needs identified and services chosen must be the subject of an amendment to the lease and be communicated to the residence's staff members, in particular to care attendants.

**53.** The operator of a private seniors' residence who provides meal services for the residents must offer varied menus that conform to Canada's Food Guide, published by Health Canada, and are adapted to the specific nutritional needs of elderly persons.

The operator must update and post visibly a list of menus in a place accessible to the residents for consultation by residents and close relatives. However, the operator may modify the menu of a posted meal provided that the residents are so informed the day before the day the meal is to be served.

The operator must keep a record of the meals served for verification purposes.

**54.** The operator of a private seniors' residence may only use control measures involving force, isolation or mechanical means on a resident in an emergency situation and as a last resort, to protect the resident or another person from a serious and imminent danger of injury. Subject to the second paragraph of section 55, control measures may only be applied when alternative measures have been ineffective in reducing the danger. In addition, control measures may only be applied temporarily and in exceptional cases, in the least constraining way possible.

The operator may not use any chemical substance as a control measure.

**55.** When alternative control measures are applied to reduce the danger, the operator must

(1) advise without delay the resident's representative, if applicable, and the person to be contacted in case of emergency. If that person cannot be reached in time, the operator must notify a close relative;

(2) ask the integrated health and social services centre to assess the resident's condition; and

(3) ensure that the following information is recorded in the resident's file:

(a) the date and time of the intervention;

(b) the alternative measures applied, the reason for applying the measures, and their effectiveness; and

(c) the name of the persons who have been informed of the situation, the date and time when they were informed, and the information provided to them.

When exceptionally, considering the seriousness of the danger and emergency, alternative control measures may not be used to reduce the danger, the operator must ensure that the reasons for which the measures were rejected are recorded in the resident's file.

**56.** The operator of a private seniors' residence who applies control measures in accordance with the first paragraph of section 54 must

(1) notify without delay the persons referred to in subparagraph 1 of the first paragraph of section 55;

(2) immediately ask the integrated health and social services of the territory where the residence is situated to assess the condition of the resident without delay and to identify and implement appropriate measures to ensure the resident's safety; and

(3) ensure that the following information are recorded in the resident's file, in addition to the information listed in subparagraphs *a* and *c* of subparagraph 3 of the first paragraph of section 55:

(a) the measures applied, the reason for applying the measures, and the place and duration of their application; and

(b) the measures taken to ensure the resident's safety, including supervision measures, and the resident's reaction to the measures.

### *§3. Keeping of files and confidentiality of information*

**57.** The operator of a private seniors' residence must keep a file for each resident containing, in particular,

(1) the resident's name and date of birth;

(2) the name and contact information of a person to be contacted in case of emergency;

(3) where applicable, the name and contact information of the resident's representative and a description of the acts that the representative is authorized to perform for the resident; and

(4) a copy of the lease, including Schedule 6, signed with the resident or, as the case may be, the resident's representative.

In addition to the information provided for in the first paragraph, the operator of a category 2, 3, or 4 residence must enter into the resident's file

(1) a description of the resident's health problems and specific needs, including any allergies, or other particulars that must be taken into account in case of emergency and in the services offered to the resident in the residence;

(2) the distribution procedure for the resident's medications, where applicable;

(3) the name and contact information of the resident's attending physician, where applicable; and

(4) the name and contact information of the resident's pharmacist, where applicable.

The operator of a private seniors' residence must also include in the file, in accordance with this Regulation,

(1) the resident's consent obtained by the operator for each disclosure of personal information concerning the resident;

(2) the resident's written refusal provided for in the third paragraph of section 15;

(3) the resident's information sheet provided for in the second paragraph of section 24;

(4) a copy of any accident report concerning the resident made under the third paragraph of section 50;

(5) a record of any disclosure concerning the resident made under subparagraph 3 of the second paragraph of section 50;

(6) the indication that a notice provided for in section 51 has been given, where applicable;

(7) the result of the identification of the loss of autonomy or of the assessment of the resident's autonomy made in accordance with section 52; and

(8) the information provided for in subparagraph 3 of the first paragraph of sections 55 and 56 regarding the application on the resident of a control or alternative measure.

If a person refuses to provide information required under this section, the operator must have the person sign a declaration to that effect. The declaration must be kept in the file.

In order to comply with the provisions of the first paragraph of section 60, an operator may keep the elements provided for in subparagraphs 1 to 4 of the first paragraph in a separate physical file.

**58.** The operator of a private seniors' residence must keep a file for each staff member containing, as a minimum,

(1) a description of the tasks to be performed;

(2) proof that the staff member holds the attestations and diploma or one of the documents required under sections 28 and 29;

(3) in the case of a professional, the number of the professional's permit and annual proof of the professional's registration on the roll of the professional order concerned;

(4) a copy of the declaration and consent provided for in section 31 and the result of the verifications made in respect of the declarations referred to in that section;

(5) the undertaking provided for in the third paragraph of section 34; and

(6) the undertaking provided for in the third paragraph of section 36.

The operator of a residence referred to in the first paragraph of section 17 must also keep a file for each volunteer ensuring supervision pursuant to that paragraph. The file must contain

(1) proof that the volunteer holds the attestations provided for in the fourth paragraph of section 17;

(2) a copy of the declaration and consent provided for in section 31 and the result of the verifications made in respect of the declarations referred to in that section; and

(3) the undertaking provided for in the third paragraph of section 36.

**59.** The files referred to in sections 57 and 58 must be quickly accessible in case of emergency or upon request by a person authorized to consult them.

**60.** The operator of a private seniors' residence must protect the confidentiality of the personal information held pursuant to this Regulation and give access to them only in accordance with the Act respecting the protection of personal information in the private sector (chapter P-39.1).

The operator must keep the file of a resident for at least 5 years after the departure or death of the resident and the file of a staff member or a volunteer referred to in the first paragraph of section 17 for at least 5 years after his or her departure from the residence.

### CHAPTER III RENEWAL AND TRANSFER

**61.** As soon as the integrated health and social services centre starts the renewal process of his or her certificate of compliance, the operator of a private seniors' residence must provide the centre with the documents and information listed in subparagraphs 1 to 10 and 12 of the first paragraph of section 11 and the second paragraph of that section, if applicable, except for documents and information previously provided to the integrated centre if the operator certifies that they are still complete and accurate. That exception does not apply to the declarations referred to in subparagraphs 9 and 10 of the first paragraph of that section.

The operator must also provide the integrated centre with any information it requires concerning compliance with the conditions set out in section 10 and complete the form for self-assessment of compliance with the conditions of the Act respecting health services and social services and of this Regulation provided by the centre.

**62.** Every person who, in accordance with section 346.0.20 of the Act, requests from an integrated health and social services centre permission to become the transferee of the rights conferred by a temporary certificate of compliance or a certificate of compliance must meet the conditions set out in section 10 and provide the documents and information listed in section 11, except those listed in subparagraph 11 of the first paragraph of that section.

#### CHAPTER IV OTHER APPLICATION

**63.** For the purposes of this Regulation, a reference to an integrated health and social services centre is, if applicable, a reference to the Centre régional de santé et de services sociaux de la Baie-James.

#### CHAPTER V OFFENCES

**64.** A contravention of any provision of the second paragraph of section 8, section 9, the third paragraph of section 11, sections 13 to 15, 21 to 24, the first and second paragraphs of section 26, sections 33 and 34, the first, second and fourth paragraphs of section 36, sections 37 to 42, 44 to 46, 47, the first paragraph of section 49, sections 50 to 56, the first, second and third paragraphs of section 57 and sections 58 to 60 constitutes an offence.

A contravention by the operator of the provisions of the first paragraph of section 9 with respect to compliance with any provision of sections 17 to 20, 25, the third paragraph of section 26, sections 28 to 32, the third paragraph of section 36, section 43 and the second paragraph of section 49 also constitutes an offence.

#### CHAPTER VI TRANSITIONAL AND FINAL

**65.** Despite section 29, a care attendant who, on (*insert the date preceding the date of coming into force of this Regulation*), is a staff member of a private seniors' residence, has until (*insert the date occurring one year after the date of coming into force of this Regulation*) to complete his or her training and to comply with the provisions of that section.

**66.** This Regulation replaces the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence (chapter S-4.2, r. 5.01).

**67.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

#### SCHEDULE I (s. 8)

Residential centre for seniors or for the elderly

Retirement centre for seniors or for the elderly

Long-term care centre for seniors or for the elderly

Living centre for seniors or for the elderly

Centre for seniors or for the elderly

Private housing and residential establishment for seniors or for the elderly

Home for seniors or for the elderly

Foster home for seniors or for the elderly

Evolutionary housing for the retired, for seniors or for the elderly

Asylum for seniors or for the elderly

Retirement home for seniors or for the elderly

Residential home for seniors or for the elderly

Residence for seniors or for the elderly

Residence for the aged

#### SCHEDULE II (s. 14)

**1.** For every residence, regardless of the category, general civil liability coverage of at least

— Residence with 1 to 9 rooms or apartments: \$2,000,000;

— Residence with 10 to 50 rooms or apartments: \$3,000,000;

— Residence with 51 to 100 rooms or apartments: \$5,000,000;

— Residence with more than 100 rooms or apartments: \$8,000,000.

**2.** For every category 1 residence, professional liability coverage of at least \$500,000.

**3.** For every category 2 residence, professional liability coverage of at least \$1,000,000.

4. For every category 3 or category 4 residence, professional liability coverage of at least \$2,000,000.

### SCHEDULE III

(s. 22)

1. Procedure to follow if the life or physical integrity of a resident is in danger:

- (1) ensure the resident's safety and provide first aid;
- (2) call the emergency 911 service and provide all relevant information concerning the emergency;
- (3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency identified in the resident's file kept pursuant to section 57;
- (4) prepare the information required by the ambulance technicians;
- (5) record in the resident's file, kept pursuant to section 57, a description of the circumstances and facts of the event;
- (6) notify the person responsible at the residence of the situation and nature of the emergency.

2. Procedure to follow in the event of a resident's death:

- (1) call the emergency 911 service immediately;
- (2) give the authorities all the required information and follow the instructions of the emergency services;
- (3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency.

3. Procedure to follow if a resident is absent without reason:

- (1) question staff members about possible reasons for the resident's absence and places where the resident may possibly be found;
- (2) inspect all rooms in the residence, the grounds and the surrounding area;
- (3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency, and ask them about places where the resident may possibly be found;
- (4) call the emergency 911 service;

(5) give the police the information sheet referred to in the second paragraph of section 24;

(6) notify the resident's representative, if applicable, the person to be contacted in case of emergency and the police if the resident is found;

(7) complete the incident or accident report referred to in section 50;

(8) take all necessary measures, working with the resident, the resident's close relatives and, if the person is prone to wandering, the integrated health and social services centre in the territory where the residence is situated, to prevent a reoccurrence of the event.

4. Procedure to follow in the event of a heat wave advisory:

- (1) place a sufficient number of fans in the common areas and, where possible, in rooms and apartments;
- (2) distribute cold drinks and water frequently during the day;
- (3) cancel all physical activities in the recreation schedule and advise residents to stay in the shade or go outside late in the day, wear a hat and apply sunscreen;
- (4) ask residents to stay in air-conditioned rooms in the residence, where applicable;
- (5) early in the morning, close windows, drapes and blinds, especially on the sides of the building exposed to the sun, and keep them closed until the outdoor temperature drops;
- (6) when the outdoor temperature drops, open windows as wide as possible to create drafts;
- (7) conduct inspection tours of rooms and apartments;
- (8) call the emergency 911 service if any residents have symptoms that point to a deterioration in their physical condition.

### SCHEDULE IV

(s. 28)

1. For cardiopulmonary resuscitation and standard first aid:

- St. John Ambulance;
- Heart & Stroke Foundation of Québec;

—Canadian Red Cross;

—any other organization contractually linked with the Commission de la santé et de la sécurité du travail (CSST) to provide first aid training.

The training given by those organizations must allow the acquisition of the following skills:

(a) Skills in cardiopulmonary resuscitation:

—assess properly vital functions;

—be familiar with techniques to unblock airways, apply artificial respiration and perform cardiac massage;

—be able to apply the techniques;

(b) Skills in standard first aid:

—understand the role and responsibilities of a first aid provider with regard to the legislative and regulatory provisions in force;

—know how to take charge of an emergency situation;

—recognize urgent situations and intervene appropriately while waiting for emergency services, in particular in the following situations:

—allergic reactions;

—problems related to heat or cold, such as heatstroke and hypothermia;

—poisoning;

—hemorrhaging and shock, including the prevention of blood-borne contamination;

—muscular and skeletal injuries, including prevention during convulsions;

—eye injuries;

—open wounds of medical or accidental origin, including the application of sealed compression dressings;

—medical problems such as chest pain, hypoglycemia and epilepsy.

2. Training providers accredited by the Association paritaire pour la santé et la sécurité du travail du secteur affaires sociales (ASSTSAS) are recognized for the safe movement of persons.

102313

## Draft Regulation

An Act to establish the new Code of Civil Procedure (2014, chapter 1)

### Basic Parental Contribution Determination Table

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the Basic Parental Contribution Determination Table, appearing below, may be made by the Minister of Justice on the expiry of 45 days following this publication.

The draft Regulation prescribes the table determining the combined basic child support contribution payable as of 1 January 2016 by parents on the basis of their disposable income and the number of children they have, according to the fiscal parameters for 2015. It maintains the calculation previously established by the Government in the Regulation respecting the determination of child support payments (chapter C-25, r. 6) which enables the contribution to be determined when the number of children is greater than six.

Study of the file has shown no significant impact on citizens or enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Annie Gauthier, Direction des orientations et politiques du ministère de la Justice, at 1200, route de l'Église, 9<sup>e</sup> étage, Québec (Québec) G1V 4M1, by telephone at 418 646-5580, extension 20172, by fax at 418 646-4894, or by e-mail to: annie.gauthier@justice.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Québec (Québec) G1V 4M1.

STÉPHANIE VALLÉE,  
*Minister of Justice*